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August 10, 1994

BY HAND DELIVERY

William F. Caton, Acting Secretary  
Federal Communications Commission  
1919 M Street, N.W., Room 222  
Washington, D.C. 20554

Re: ET Docket No. 93-7

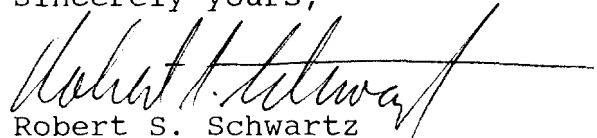
Dear Mr. Caton:

Enclosed for filing are an original and eleven copies of the Reply of the Consumer Electronics Retailers Coalition in the matter noted above.

An additional copy to be date stamped and returned with the messenger for our files is also enclosed.

Thank you for your assistance.

Sincerely yours,

  
Robert S. Schwartz

Enclosures

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OFFICE OF THE SECRETARY

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Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C.

In the Matter of )  
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Implementation of Section 17 of the )  
Cable Television Consumer Protection )  
and Competition Act of 1992 )  
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Compatibility Between Cable Systems )  
and Consumer Electronics Equipment )  
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ET Docket No. 93-7

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REPLY OF THE  
CONSUMER ELECTRONICS RETAILERS COALITION

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ET Docket No. 93-7

**REPLY OF THE**  
**CONSUMER ELECTRONICS RETAILERS COALITION**

The Consumer Electronics Retailers Coalition hereby replies to comments and oppositions filed with respect to petitions for reconsideration and clarification of the First Report and Order in this proceeding, adopted April 4 and released May 4, 1994.<sup>1/</sup>

The July 28 Opposition of the National Cable Television Association ("NCTA") and the July 28 Comments of General Instrument Corporation ("GI") erase any doubt that significant elements of the cable industry are intent on frustrating Section 624A(c)(2)(C) of the Communications Act, as well as pars. 42 and 29 of the Commission's First Report and Order. The NCTA Opposition displays apparent amnesia as to the requirements of Section 624A(c)(2)(C) and the Commission's rationale in pars. 42 and 29, which require the separation of access and control functions in set-back and set-top converter

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<sup>1/</sup>In the Matter of Compatibility Between Cable Systems and Consumer Electronics Equipment, First Report and Order, ET Docket No. 93-7, FCC 94-80.

boxes. NCTA now argues that the purpose of these measures was not competitive procurement of converter boxes; rather it was to facilitate competition in competing signal delivery systems!<sup>2/</sup>

NCTA then observes that if cable operators are allowed to supply modules that mix features and descrambling, they should not be burdened with having to offer **any** descrambler-only modules, because there is "no demonstrated market demand" for them.<sup>3/</sup> This ranks with killing one's father and mother, then applying for mercy as an orphan. Only because cable operators have monopolized and bundled features and access for so long does no market yet exist for access-only or feature-only devices. (Similarly, there was no market for consumer-owned telephones, modems, answering machines, fax machines, etc., until telephone equipment was unbundled from services.) This condition the law, and the Commission, would change.

NCTA does, however, do a service in focusing on the fragile demand for access-only modules in a context where all other products have been bundled. It is indeed questionable whether a vigorous market for feature devices can emerge if cable operators are merely required to offer a few access-only

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<sup>2/</sup>"The reason for the separation, however, is not to limit cable to descrambling-only functions but to ensure that cable's provision of a descrambler/decoder module does not interfere with or impede a competing video delivery system or third party distributor from being able to connect to the television interface." NCTA Opposition at 4.

<sup>3/</sup>NCTA Opposition at 4, n. 3.

set-back modules to comply with par. 42, and do nothing to comply with par. 29, which addresses the basic set-top context in which access and features are jointly monopolized. For this reason the Coalition argued, in its July 28 Comments and Opposition, that such a measure would be insufficient to effectuate the law and the Commission's policy. We argued that, instead, the Commission should require, once the Act's definition of "cable-ready" becomes effective, that all new set-top converter boxes and set-back units should consist of an operator-supplied access module, plus a feature module that subscribers may obtain **either** from the cable operator or from competitive retail sources.

The NCTA and GI filings make crystal clear their belief and intention that the industry standard for service should remain the set-top converter box. In its Opposition, NCTA says (p. 5):

If the cable industry is restricted to merely providing a plug-in descrambler, it will be unable to offer subscribers the functionalities that it currently provides in set-top converters, much less the full array of potential new services. \*\*\* We do not believe that the Commission intended to limit subscriber choice to whatever functions are built into the consumer equipment.

As we argue in our Comments, the only answer to this dilemma that conforms to the Act's clear requirements is to require that, once the definition of "cable-ready" takes effect, both set-top and set-back boxes consist of access and feature modules with a common interface. Cable operators should by no means be precluded from mating their access

modules with the best feature modules they can design, for both set-top and set-back use. If, as NCTA argues, there will not be any demand for a set-back access-only module, then the cable operator can supply a feature module along with each access module -- unless and until the customer finds and chooses a competitive feature module. This is the sort of competition, in converter boxes, that the Act requires.

Accordingly, we must disagree with the position of the Electronic Industries Association's Consumer Electronics Group ("EIA/CEG") that cable operators should be free to offer bundled modules, integrating access and feature circuitry, so long as they make access-only modules separately available. We agree with NCTA and GI that this would perpetuate the imbalance between the set-top and set-back versions of cable services. The "set-top" presentation would forevermore be held as the standard; scale economies in making set-back devices along integrated set-top lines could forestall meaningful unbundling of access from features.<sup>4/</sup> Conversely, requiring separate access and feature modules and a common interface will lead to scale economies that support competitive supply.<sup>5/</sup>

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<sup>4/</sup>NCTA has said as much in arguing that its members should not have to bother with production runs of the access-only modules.

<sup>5/</sup>We support the Compaq Comments that suggest a solution similar to our own proposal. The emergence in this proceeding of a manufacturer from a different industry intent on  
(continued...)

While we agree with EIA/CEG's competitive objectives, the Coalition believes that the only way the Act and the Commission's clear policy favoring competition in features and feature hardware will have meaning is for an access/feature interface to be built into both set-top and set-back hardware. Let the creativity to provide new horizons in cable features and service flow from the competitive market, as Congress intended in requiring competition in converter boxes. Cable operators should have every right to compete in supplying feature hardware, but their right to monopolize it expired when the 1992 Cable Act became law.

The continued attempt to leverage legitimate cable industry signal security concerns into monopolization of competitive features and hardware is the strongest argument yet for a National Renewable Security Standard. We urge the Commission to proceed as expeditiously as possible with its new Notice of Inquiry as to digital transmission standards, including such a standard with respect to security.<sup>6/</sup>

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<sup>5/</sup> (...continued)

supplying feature hardware if only such devices can be unbundled from converter boxes shows that faith in competition is not misplaced. The Hewlett-Packard Opposition, though addressed to a different point, is of similar import.

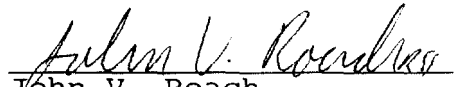
<sup>6/</sup> Apparently the only way to end attempts to control feature hardware by bundling it in with monopolized access hardware is to end the monopoly on access hardware. We are confident that the responses to the Commission's NOI will illustrate that this can and should be done, through localized and renewable encryption software applied to a standardized hardware interface.

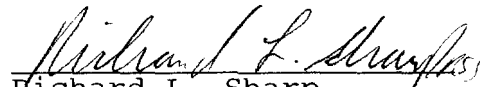
Meanwhile, the Commission, in pars. 42 and 29, has articulated a sensible policy to begin separating access hardware, in which cable operators maintain a legitimate monopoly interest, from feature hardware, in which they do not. The oppositions to par. 42 should be denied, access-only modules should be required for set-back use, supplemented as necessary by feature modules, and par. 29 should be clarified to require an access/feature interface in set-top boxes offered by cable systems once the technical requirements for "cable-ready" devices become effective.

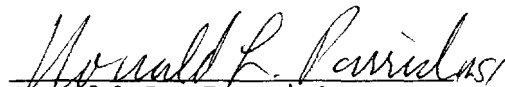
Respectfully submitted,

CONSUMER ELECTRONICS RETAILERS  
COALITION

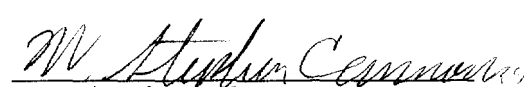
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August 10, 1994



CERTIFICATE OF SERVICE

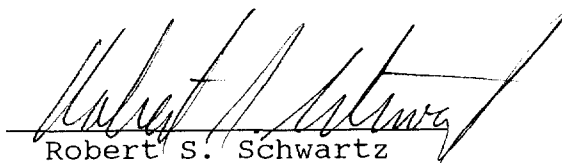
I, Robert S. Schwartz, hereby certify that I have caused a true and correct copy of the foregoing Reply of the Consumer Electronics Retailers Coalition to be served this 10th day of August, 1994, by hand, to each of the following individuals:

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